S.B. CRIMINAL REVISION PETITION NO.1355/2007.

(GULAB NABI VS. STATE)

DATE OF ORDER : 12.12.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. P.C. Solanki for the petitioner.
Mr. O.P. Rathi, Public Prosecutor.

This revision petition under Section 397 read with Section 401 Cr.P.C. is preferred to challenge the order dated 29.10.2007 passed by learned Additional Chief Judicial Magistrate (SD) No.3, Jodhpur taking cognizance of offence under Section 366, 376 and 120-B IPC against the petitioner. By the same order, cognizance relating to offence referred above was taken against Smt. Mobina and Kumari Meenaz.

This Court by the judgment dated 05.12.2007 has already accepted the revision petition preferred by Smt. Mobina and Kumari Meenaz by setting aside the order dated 29.10.2007 to the extent it relates to taking cognizance against them.

It is contended by counsel for the petitioner that the case of the petitioner is similar from all corners to the case of Smt. Mobina and Kumari Meenaz.

I have perused the order impugned and also the relevant record. There is no evidence available on record sufficient for taking cognizance for the offence punishable under Section 376 against the petitioner. As a matter of fact, even by accepting whatever stated in the Police Report, no allegation for the offence under Section 376 IPC is made out against present petitioner Shri Gulab Nabi. For other offences, the case of the petitioner is exactly similar to the case of Smt. Mobina and Kumari Meenaz.

In view of it, this revision petition is also allowed in the terms of the judgment dated 05.12.2007 (S.B. Criminal Revision Petition No.1329/2007) and the order dated 29.10.2007 is set aside to the extent it relates to taking cognizance against the petitioner for the offence under Section 366, 376 and 120-B IPC.

(GOVIND MATHUR)J.

Anil/